

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, MISSOURI

STATE OF MISSOURI ex rel.
Chris Koster, Attorney General of
Missouri, the MISSOURI CLEAN
WATER COMMISSION, and the
MISSOURI DEPARTMENT OF
NATURAL RESOURCES,

Plaintiff,

v.

JULIE MCGOWAN,
and
SUNNY ACRES II, L.L.C., d/b/a
SUNNY ACRES MOBILE HOME PARK

Defendants.

FILED
MAY 16 2012

HOWARD WAGNER
CIRCUIT CLERK

Case No. 12JE-AC02316

CONSENT JUDGMENT

Plaintiff, State of Missouri, at the relation of Attorney General Chris Koster, the Missouri Clean Water Commission, and the Missouri Department of Natural Resources; and Defendants Julie McGowan and Sunny Acres II, L.L.C., hereby consent to the entry of this Consent Judgment.

The Court has read Plaintiff's Petition for Injunctive Relief and Civil Penalties, in which Plaintiff alleges that Defendants violated the Missouri Clean Water Law. The Court is satisfied that the provisions of this Consent Judgment are intended to resolve the issues raised by the Petition and that the parties want to terminate this controversy and consent to the entry of this judgment without trial.

This Consent Judgment is made, agreed upon, and submitted to the Court for the purpose of settlement only and upon the condition that the Court approves it in its entirety. In the event the Court does not approve of this Consent Judgment in its entirety and as agreed by the parties, it shall be null and void and have no effect in this or any other proceeding. The parties understand and agree that each and every term of this Consent Judgment shall be enforceable by further order of this Court, and to that end, the Court retains jurisdiction over the matter in order to enforce each and every term of this Consent Judgment. The Court finds that the terms of this Consent Judgment protect the public's interest.

The parties hereto, having consented to the entry of this Consent Judgment, now therefore, before the taking of any testimony and upon the pleadings, it is hereby ORDERED, ADJUDGED, AND DECREED that:

I. Objectives of the Parties

1. The objectives of the parties to this Consent Judgment are to protect human health and the environment and to resolve allegations contained in Plaintiff's Petition.

II. Definitions

2. Terms used herein shall have the same meaning as provided in the Missouri Clean Water Law, chapter 644 RSMo, and the regulations adopted thereunder. In addition, the following terms are specifically defined:

- a. “Consent Judgment” means this Consent Judgment and all attachments, which are included by reference and fully enforceable as a term of the judgment.
- b. “Defendants” means Julie McGowan and Sunny Acres II, L.L.C., d/b/a Sunny Acres Mobile Home Park.
- c. “Department” means the Missouri Department of Natural Resources.
- d. “Facility” means the wastewater treatment facility serving the Sunny Acres II Mobile Home Park, located in High Ridge, Jefferson County, Missouri.
- e. “Plaintiff” means the State of Missouri at the relation of Attorney General Chris Koster, the Department, and Missouri Clean Water Commission.

III. Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter herein and over the parties consenting hereto pursuant to § 644.076.1, RSMo (2000).¹ The subject matter of this action involves the Missouri Clean Water Law, chapter 644, RSMo, and its implementing regulations. The Defendants’

¹ All statutory references shall be to the Missouri Revised Statute 2000 unless specifically stated otherwise.

actions giving rise to this action took place in Jefferson County, and venue is therefore proper pursuant to § 644.076.1, RSMo.

IV. Parties Bound

4. The provisions of this Order shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations, and other entities who are, or who will be, acting in concert or privity with, or on behalf of, the parties to this action or their agents, servants, employees, heirs, successors, and assigns. Defendants shall provide a copy of this order to all persons or entities retained to perform work required by this order.

V. Satisfaction and Reservation of Rights

5. Upon the completion of all terms of this Consent Judgment, including the payment of civil penalties, completion of all schedules of compliance, and the payment of any stipulated penalties due under the terms of this Consent Judgment, Defendants are relieved of liability for the violations alleged in Plaintiff's Petition.

6. This Consent Judgment shall not be construed to limit the rights of the State to obtain penalties or injunctive relief under the Missouri Clean Water Law or its implementing regulations, or under other federal or state laws, or regulations, except as expressly stated in the preceding paragraph of

this Consent Judgment. Without limiting the foregoing, the parties expressly agree that:

- a. Nothing in this Consent Judgment shall prevent State from applying to this Court for further orders or relief if violations of this Consent Judgment occur.
- b. Nothing in this Consent Judgment shall preclude State from seeking equitable or legal relief for violations of the Missouri laws or regulations that were not alleged in the petition.
- c. Nothing in this Consent Judgment shall preclude State from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or regulations promulgated under its authority.
- d. The State of Missouri further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendants' facility, acts, or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

VI. Injunctive Relief

- 7. Defendants agree and are ordered to comply with all state of Missouri environmental statutes and all implementing regulations for any

and all future activities in the state of Missouri.

VII. Civil Penalty

8. Defendants consent to the entry of judgment in favor of the Plaintiff for a civil penalty of Ten Thousand Dollars (\$10,000.00). Defendants hereby authorize entry of this judgment against them and in favor of the Plaintiff for this sum. Payment of the Ten Thousand Dollars (\$10,000.00) civil penalty shall be made in 6 separate and equal payments. Within thirty (30) days from the entry of this Consent Judgment, Defendant shall make the first payment of One Thousand, Six Hundred and Sixty-Six Dollars and 67/100 (\$1,666.67). The next 5 payments shall each be in the amount of One Thousand, Six Hundred and Sixty-Six Dollars and 67/100 (\$1,666.67). All but the first payment shall be made by the 1st day of each succeeding month. All of the payments shall be made by submitting a check made payable to the "*State of Missouri (Jefferson County)*" to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. If Defendant fails to make any payment within five calendar days of the due date, it shall become immediately liable for payment of the entire unpaid amount.

VIII. Stipulated Penalties

9. In the event that Defendants fail to comply with the requirements set forth in this Consent Judgment, Defendants shall be liable for stipulated penalties in accordance with the following schedule:

- a. \$200.00 per day for each day of each violation up to thirty days.
- b. \$400.00 per day for each day of each violation, from thirty-one days to sixty days.
- c. \$600.00 per day for each day of each violation, beyond sixty days

10. Stipulated penalties shall be due and payable within ten days of demand being made by the Attorney General's Office. Defendants shall pay stipulated penalties by certified check made payable to the "State of Missouri (Jefferson County)" and mail the payment along with a copy of the State's stipulated penalty demand letter to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899. That check will be deposited and processed in accordance with the Consent Judgment and Missouri law.

11. The inclusion of stipulated penalty provisions in this Consent Judgment and the payment of stipulated penalties does not limit the State's ability to pursue other penalties for the same acts; where a violation of this

Consent Judgment also constitutes a violation of a statute, stipulated penalties may be collected in addition to statutory penalties imposed for those violations.

IX. Notices and Submittals

12. Whenever, under the terms of this Consent Judgment, notice is required to be given or a report or other document is required to be forwarded by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice in writing of another individual designated to receive such communications. Notice to the individuals listed below or such other individuals designated pursuant to the foregoing, in writing and hand-delivered or sent by registered or certified mail, postage prepaid, shall constitute complete satisfaction of any notice requirement of the Consent Judgment.

To the Missouri Department of Natural Resources:

Corinne Rosania
Compliance and Enforcement Section
Water Protection Program
Missouri Department of Natural Resources P.O. Box 176
Jefferson City, MO 65102
Voice: 573.751.6725
Fax: 573.522.9920

To the Attorney General's Office:

Laura Bailey Brown, or her designee
Assistant Attorney General
Attorney General's Office, Agriculture and Environment Division
PO Box 899
Jefferson City, Missouri 65102
Voice: 573.751.8795
Fax: 573.751.8796

X. Modification


13. Except as otherwise specified herein, this Consent Judgment may be modified or amended only upon written agreement by and among the parties, their successors, and assigns and with the approval of the Court. All modifications shall be in writing and filed with the Court.

XI. Costs

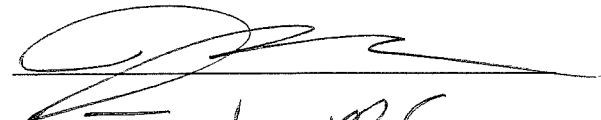
14. Defendants shall pay all court costs in this action.

The parties hereby consent to this Consent Judgment through their
duly authorized representatives as indicated below.

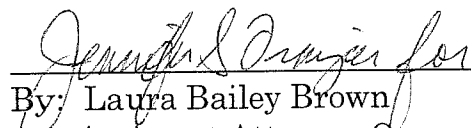
JULIE MCGOWAN


Date: 4/20/12

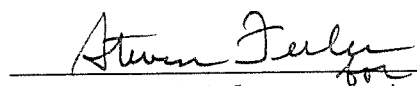
SUNNY ACRES II, L.L.C.


By: Julie McGowan
Title: Manager
Date: 4/20/12


MISSOURI ATTORNEY GENERAL'S OFFICE


By: Laura Bailey Brown
Assistant Attorney General
Date: 4/26/12

MISSOURI DEPARTMENT OF NATURAL RESOURCES


By: Alan Reinkemeyer, Acting Director
Division of Environmental Quality
Date: May 4, 2012

SO ORDERED.

 DW 11A-12
Circuit Judge
Date: 5/16/2012